

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF DELAWARE**

|   |   |                          |
|---|---|--------------------------|
| <b>DEVEARL L. BACON,</b>                    | : |                          |
|   | : |                          |
| Petitioner,                                 | : |                          |
|   | : |                          |
| v.  | : | Civ. Act. No. 06-519-JJF |
|   | : |                          |
| <b>THOMAS CARROLL,</b>                      | : |                          |
| Warden, and <b>JOSEPH R. BIDEN, III,</b>    | : |                          |
| Attorney General for the State of Delaware, | : |                          |
|   | : |                          |
| Respondents. <sup>1</sup>                   | : |                          |

**MOTION FOR EXTENSION OF TIME TO FILE**  
**CERTIFIED STATE COURT RECORDS**

1. The petitioner, Devearl L. Bacon, has applied for federal habeas relief challenging his June 2001 conviction by a Delaware Superior Court jury of five counts of first degree robbery, two counts of possession of a firearm during the commission of a felony, first degree carjacking, two counts of possession of a deadly weapon by a person prohibited, two counts of aggravated menacing, and two counts of wearing a disguise. D.I. 2. The undersigned filed an answer to the petition on January 5, 2007.

2. By the terms of the Court's order, the respondents are directed to attach to the answer certified copies of the state court records material to the questions raised in the petitioner's appeal.

3. Due to the large volume of record retrieval recently required by prosecutors in the appeals division and the intervening holidays, the undersigned has been unable to obtain the

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<sup>1</sup> See Fed.R.Civ.P. 25(d)(1). Attorney General Joseph R. Biden, III, assumed office on January 2, 2007, replacing former Attorney General Carl C. Danberg, an original party to this case.

certified state court records in order to file them contemporaneously with the answer. The undersigned anticipates obtaining and copying the records on or before January 22, 2007.

4. Respondents submit that an extension of time to January 22, 2007 in which to file certified copies of the material portions of the state court records in this case is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759  
elizabeth.mcfarlan@state.de.us

Date: January 5, 2007

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General

Counsel for Respondents

Date: January 5, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2007, I electronically filed this motion for extension of time to file certified state court records and attachments with the Clerk of Court using CM/ECF. I also hereby certify that on January 5, 2007, I have mailed by United States Service, two copies of the same documents to the following non-registered participant:

Devearl L. Bacon  
SBI No. 221242  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
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| Warden, and <b>JOSEPH R. BIDEN, III,</b>    | : |                          |
| Attorney General for the State of Delaware, | : |                          |
|   | : |                          |
| Respondents. <sup>1</sup>                   | : |                          |

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2007,

WHEREAS, respondents having requested an extension of time in which to file certified state court records, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that certified state court records shall be filed on or before January 22, 2007.

\_\_\_\_\_  
United States District Judge

<sup>1</sup> See Fed.R.Civ.P. 25(d)(1). Attorney General Joseph R. Biden, III, assumed office on January 2, 2007, replacing former Attorney General Carl C. Danberg, an original party to this case.